

28

Order: 2024-09

REVISED ABATEMENT OF PUBLIC NUISANCE ORDINANCE

STATE OF TEXAS

COMMISSIONERS' COURT

COUNTY OF NAVARRO

In the Commissioners' Court of Navarro County, Texas on this the **12th** day of **August, 2024**, the Commissioners' Court of Navarro County, Texas being in regular session at regular term of said Court acting pursuant to the authority by Chapter 343, 365, 341, of the Texas Health and Safety Code to include Chapter 683 Subchapter E and Chapter 396 of the Texas Transportation Code and Chapter 234 of the Local Government Code, with the following proceedings to-wit:

WHEREAS, the Commissioners' Court finds and determines that trash, litter, junked vehicles and junked mobile homes, boats and abandoned structures are detrimental to the public health, safety and welfare of the residents of Navarro County.

WHEREAS, the Commissioners' Court finds and determines that this Order is necessary to promote health, safety and welfare of the residents of Navarro County.

WHEREAS, the Commissioners' Court desires to provide regulations to control the storage or accumulation of litter, refuse, rubbish, abandoned vehicles, refrigerators, boats, stoves, furniture, tires and cans in neighborhood areas or maintaining unsanitary or structurally unsafe buildings and premises or unincorporated areas of Navarro County, providing written notice to the owner, lessee or occupant and calling for enforcement by the elimination, removal, repair, rehabilitation or demolition of the building or nuisance including the right to a hearing before the Commissioners; Court or any commission, board or official designated by the Court for this purpose including a lien against the property if necessary for the costs of abatement of the nuisance together with any administration fees allowed, repealing all conflicting orders, if any; providing for severability; providing for publication; and declaring and effective date.

THEREFORE, upon motion by Comm Grant seconded by Comm Moore **IS ORDERED BY THE COMMISSIONERS' COURT OF NAVARRO COUNTY, TEXAS, THAT:**

SECTION 1: DEFINITIONS. In this chapter:

(1) "Abate" means to eliminate or remedy:

(A) by removal, repair, rehabilitation, or demolition;

(B) in the case of a nuisance under Section 343.011(c)(1), (9), or (10) of the Texas Health and Safety Code, by prohibition or control of access; and

(C) in the case of a nuisance under Section 343.011 (c)(12) of the Texas Health and Safety Code, by removal, remediation, storage, transportation, disposal, or other means of waste management authorized by Chapter 361 of the Texas Health and Safety Code.

(2) "Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.

(3) "Garbage" means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

(4) "Neighborhood" means:

(A) a platted subdivision; or

(B) property contiguous to and within 300 feet of a platted subdivision.

(5) "Platted subdivision" means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

(6) "Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

(7) "Public street" means the entire width between property lines of a road, street, way, thoroughfare, or bridge if any part of the road, street, way, thoroughfare, or bridge is open to the public for vehicular or pedestrian traffic.

(8) "Receptacle" means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

(9) "Refuse" means garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses.

(10) "Rubbish" means non-decayable waste from a public or private establishment or residence.

(10-a) "Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is located in an unincorporated area at least 5,000 feet outside the boundaries of a home-rule municipality.

(11) "Weeds" means all rank and uncultivated vegetable growth or matter that:

(A) has grown to more than 36 inches in height; or

(B) creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

(12) "Flea market" means an outdoor or indoor market, conducted on non-residential premises, for selling secondhand articles or antiques, unless conducted by a religious, educational, fraternal, or charitable organization.

SECTION 2:

Public Nuisance Defined Sec. 343.011 H.S.C

- (a) This section applies only to the unincorporated area of a county.
- (b) A person may not cause, permit, or allow a public nuisance under this section.
- (c) A public nuisance is:
 - (1) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
 - (2) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
 - (3) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests;
 - (4) allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
 - (5) maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
 - (6) maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
 - (A) a fence that is at least four (4) feet high and that has a latched and locked gate; and
 - (B) a cover over the entire swimming pool that cannot be removed by a child;
 - (7) maintaining a flea market in a manner that constitutes a fire hazard;
 - (8) discarding refuse or creating a hazardous visual obstruction on:
 - (A) county-owned land; or
 - (B) land or easements owned or held by a special district that has the commissioners court of the county as its governing body;
 - (9) discarding refuse on the smaller of:
 - (A) the area that spans 20 feet on each side of a utility line; or
 - (B) the actual span of the utility easement;
 - (10) filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with

debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;

(11) discarding refuse on property that is not authorized for that activity; or

(12) surface discharge from an on-site sewage disposal system as defined by Section 366.002 Texas Health and Safety Code.

(d) This section does not apply to:

(1) a site or facility that is:

(A) permitted and regulated by a state agency for the activity described by Subsection (c); or

(B) licensed or permitted under Chapter 361 for the activity described by Subsection (c); or

(2) agricultural land.

SECTION 3: Exceptions or Variances 343.011 H.S.C.

(a) The Commissioners Court of Navarro County may, upon application:

(1) describe the circumstances in which a special exception to the application of Section 343.011 of the Texas Health and Safety Code, or Section 2 of this Order, is available to a person and may grant the special exception in a specific case if the Commissioners' Court finds that the specific case justifies a special exception, that the grant of the exception promotes justice, that the grant of the exception is not contrary to the public interest, and that the grant of the exception is consistent with the general purpose of Section 343.011 of the Texas Health and Safety Code and this Order; and

(2) authorize in a specific case not covered by a special exception a variance from the terms of Section 343.011 of the Texas Health and Safety Code, if the Commissioners' Court makes the same findings in connection with the specific case that it makes in connection with a special exception under Subdivision (1) and finds that due to special conditions a literal enforcement of Section 343.011 of the Texas Health and Safety Code, and Section 2 of this Order, would result in an unnecessary hardship.

(b) The commissioners court shall keep a record of its proceedings under this section and must include in the record a showing of the reasons for each decision made under this section.

SECTION 4: Criminal Penalty/Enforcement 343.012 H.S.C.

CRIMINAL PENALTY.

(a) A person commits an offense if:

(1) the person violates Section 343.011(b) of the Texas Health and Safety Code and Section 2 of this Order; and

(2) the nuisance remains unabated after the 30th day after the date on which the person receives notice from a county official, agent, or employee to abate the nuisance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

(c) If it is shown on the trial of the defendant that the defendant has been previously convicted of an offense under this section, the defendant is punishable by a fine of not less than \$200 or more than \$1,000, confinement in jail for not more than six months, or both.

(d) Each day a violation occurs is a separate offense.

(e) The court shall order abatement of the nuisance if the defendant is convicted of an offense under this section.

Civil Injunction 343.013 H.S.C.

(a) A county or district court may by injunction prevent, restrain, abate, or otherwise remedy a violation of this chapter in the unincorporated area of the county.

(b) Navarro County or a person affected or to be affected by a violation under this chapter, including a property owner, resident of a neighborhood, or organization of property owners or residents of a neighborhood, may bring suit under Subsection (a). If the court grants the injunction, the court may award the plaintiff reasonable attorney's fees and court costs.

(c) Navarro County may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1), (6), (9), or (10) of the Texas Health and Safety Code, or of Section 2 of this Order. The court may grant relief under this subsection only if the county demonstrates that:

(1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or

(2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.

(d) In granting relief under Subsection (c), the court:

(1) may not, in a suit brought under Section 343.011 (c)(10) of the Texas Health and Safety Code or Section 2 of this Order, prohibit or control access by the owner or operator of a utility line or utility easement to that utility line or utility easement; and

(2) may not prohibit the owner of the premises from accessing the property but may prohibit a continued or future violation.

Rules and Standards 365.013 H.S.C.

- (a) The Texas Board of Health shall adopt rules and standards regarding processing and treating litter disposed in violation of this subchapter.
- (b) A person commits an offense if the person violates a rule adopted under this section.
- (c) An offense under this section is a Class A misdemeanor.

SECTION 5: Authority to Abate Nuisance

By adopting these procedures, Navarro County is authorized to abate a nuisance under Chapter 343 of the Texas Health and Safety Code:

- (1) By entry upon the land to engage in demolition or removal, except as provided in (4) below;
- (2) in the case of a nuisance under Section 343.011 (c)(1), (9), or (10) of the Texas Health and Safety Code or Section 2 of this Order, by prohibiting or controlling access to the premises;
- (3) in the case of a nuisance under Section 343.011 (c)(6) of the Texas Health and Safety Code or Section 2 of this Order, by:
 - (A) prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool; or
 - (B) draining and filling the swimming pool; or
- (4) in the case of a nuisance under Section 343.011 (c)(12) of the Texas Health and Safety Code or Section 2, by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361 of the Texas Health and Safety Code and by exhaustion of remedies provided by Section 343.012(e) Health and Safety Code.

SECTION 6: Nuisance Abatement Officer and Procedures

- (a) The abatement procedures adopted by the Commissioners' Court will be administered by the County Judge. The County Judge may, by way of formal delegation of authority entered into the minutes of the Commissioners' Court, authorize another person to conduct such inspections, draft Notices or Orders, or take such other administrative steps necessary to properly enforce the nuisance abatement procedures outlined in this Order.
- (b) The County Judge, or his or her designee, may engage in the following duties and functions:
 - (1) The prohibition or control of access to the premises to prevent a violation of Section 343.011 (c)(1), (6), (9), or (10) of the Texas Health and Safety Code or Section 2;

- (2) The removal or demolition of the nuisance; and
- (3) The abatement of a nuisance described by Section 343.011(c)(12) of the Texas Health and Safety Code or Section 2.

(c) The abatement procedures must require that written notice be given to:

- (1) the owner, lessee, occupant, agent, or person in charge of the premises; and
- (2) the person responsible for causing a public nuisance on the premises when:
 - (A) that person is not the owner, lessee, occupant, agent, or person in charge of the premises; and
 - (B) the person responsible can be identified.

(d) The notice must state:

- (1) the specific condition that constitutes a nuisance;
- (2) that the person receiving notice shall abate the nuisance before the:
 - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
 - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;
- (3) that failure to abate the nuisance may result in:
 - (A) abatement by the county;
 - (B) assessment of costs to the person responsible for causing the nuisance when that person can be identified; and
 - (C) a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;
- (4) that the county may prohibit or control access to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9), or (10); and
- (5) that the person receiving notice is entitled to submit a written request for a hearing before the:
 - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; or
 - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

(e) The notice must be given:

- (1) by service in person or by registered or certified mail, return receipt requested; or
- (2) if personal service cannot be obtained or the address of the person to be notified is unknown, by posting a copy of the notice on the premises on which the nuisance exists

and by publishing the notice in a newspaper with general circulation in the county two times within 10 consecutive days.

(f) Except as provided in Subsection (g), the abatement procedures must require a hearing before the county abates the nuisance if a hearing is requested. The hearing may be conducted before the Commissioners' Court or any board, commission, or official designated by the Commissioner's Court. The Commissioners' Court may designate a board, commission, or official to conduct each hearing.

(g) A county may, before conducting a hearing, abate a nuisance under Section 343.011(c)(6) of the Texas Health and Safety Code or Section 2 by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool, but only if the conducts a hearing otherwise in accordance with Subsection (f) after the nuisance is abated.

SECTION 7: Assessment of Costs; Lien

Navarro County may:

(1) assess:

(A) the cost of abating the nuisance, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county;

(B) the cost of legal notification by publication; and

(C) an administrative fee of not more than \$100 on the person receiving notice under Section 343.022 of the Texas Health and Safety Code or Section 6 of this Order; or

(2) by resolution or order, assess:

(A) the cost of abating the nuisance;

(B) the cost of legal notification by publication; and

(C) an administrative fee of not more than \$100 against the property on which the nuisance exists.

(3) The county may not make an assessment against property unless the owner or owner's agent receives notice of the nuisance in accordance with Section 343.022 of the Texas Health and Safety Code or Section 6 of this Order.

(4) To obtain a lien against the property to secure an assessment, the Commissioners' Court of the county must file a notice that contains a statement of costs, a legal description of the property sufficient to identify the property, and the name of the property owner, if known, with the county clerk of the county in which the property is located.

(a) The county's lien to secure an assessment attaches when the notice of lien is filed and is inferior to a previously recorded bona fide mortgage lien attached to the real property to which the county's lien attaches, if the mortgage was filed for record in the office of

the county clerk of the county in which the real property is located before the date on which the county files the notice of lien with the county clerk.

SECTION 8: Use of County Funds

Navarro County is entitled to use any money available under other law for a cleanup or remediation of private property to abate a nuisance described by Section 343.011(c)(1), (9), or (10) of the Texas Health and Safety Code or provisions of this Order.

SECTION 9: Authority to Enter Premises

(a) A county official, agent, or employee charged with the enforcement of health, environmental, safety, or fire laws may enter any premises in the unincorporated area of the county at a reasonable time to inspect, investigate, or abate a nuisance or to enforce this chapter.

(b) Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.

SECTION 10: Severability

Should any section of Chapter 343 of the Texas Health and Safety Code or of this Order, be determined to be unlawful or unenforceable by a court of competent jurisdiction, that section alone shall be deemed invalid, and shall not affect, impair or restrict reliance upon any other section of Chapter 343 of the Texas Health and Safety Code, or of this Order.

SECTION 11: Amendment

Should Chapter 343 of the Texas Health and Safety Code or of this Order be amended, revised, recodified or otherwise altered, such amendments shall be deemed applicable to this Order.

SECTION 12: Minimum Standards of Sanitation and Health Protection Measures Chapter 341 of the Texas Health and Safety Code

Nuisance Section 341.011

Each of the following is a public health nuisance:

- (1) a condition or place that is a breeding place for flies and that is in a populous area;
- (2) spoiled or diseased meats intended for human consumption;
- (3) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;

- (4) a place, condition, or building controlled or operated by a state or local government agency that is not maintained in a sanitary condition;
- (5) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (6) a vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (7) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Water Code, occur;
- (8) a condition that may be proven to injuriously affect the public health and that may directly or indirectly result from the operations of a bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;
- (9) a place or condition harboring rats in a populous area;
- (10) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;
- (11) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies; and
- (12) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans.

Abatement of Nuisance

Section 341.012

- (a) A person shall abate a public health nuisance existing in or on a place the person possesses as soon as the person knows that the nuisance exists.
- (b) A local health authority who receives information and proof that a public health nuisance exists in the local health authority's jurisdiction shall issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance. The local health authority shall at the same time send a copy of the notice to the local municipal, county, or district attorney.
- (c) The notice must specify the nature of the public health nuisance and designate a reasonable time within which the nuisance must be abated.
- (d) If the public health nuisance is not abated within the time specified by the notice, the local health authority shall notify the prosecuting attorney who received the copy of the original notice. The prosecuting attorney:
 - (1) shall immediately institute proceedings to abate the public health nuisance; or
 - (2) request the attorney general to institute the proceedings or provide assistance in the prosecution of the proceedings, including participation as an assistant prosecutor when appointed by the prosecuting attorney.

Garbage, Refuse and Other Waste Section 341.013

- (a) Premises occupied or used as residences or for business or pleasure shall be kept in a sanitary condition.
- (b) Kitchen waste, laundry waste, or sewage may not be allowed to accumulate in, discharge into, or flow into a public place, gutter, street, or highway.
- (c) Waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, used tires, or other waste of any kind may not be stored, deposited, or disposed of in a manner that may cause the pollution of the surrounding land, the contamination of groundwater or surface water, or the breeding of insects or rodents.
- (d) A person using or permitting the use of land as a public dump shall provide for the covering or incineration of all animal or vegetable matter deposited on the land and for the disposition of other waste materials and rubbish to eliminate the possibility that those materials and rubbish might be a breeding place for insects or rodents.
- (e) A person may not permit vacant or abandoned property owned or controlled by the person to be in a condition that will create a public health nuisance or other condition prejudicial to the public health.

Disposal of Human Excreta Section 341.014

- (a) Human excreta in a populous area shall be disposed of through properly managed sewers, treatment tanks, chemical toilets, or privies constructed and maintained in conformity with the department's specifications, or by other methods approved by the department. The disposal system shall be sufficient to prevent the pollution of surface soil, the contamination of a drinking water supply, the infection of flies or cockroaches, or the creation of any other public health nuisance.
- (b) Effluent from septic tanks constructed after September 4, 1945, shall be disposed of through:
 - (1) a subsurface drainage field designed in accordance with good public health engineering practices; or
 - (2) any other method that does not create a public health nuisance.
- (c) A privy may not be constructed within 75 feet of a drinking water well or of a human habitation, other than a habitation to which the privy is appurtenant, without approval by the local health authority or the department. A privy may not be constructed or maintained over an abandoned well or over a stream.
- (d) The superstructure and floor surrounding the seat riser and hopper device of a privy constructed and maintained in conformity with the department's specifications shall be kept in a sanitary condition at all times and must have adequate lighting and ventilation.
- (e) Material and human excreta removed from a privy vault or from any other place shall be handled in a manner that does not create a public health nuisance. The material and human

excreta may not be deposited within 300 feet of a highway unless buried or treated in accordance with the instructions of the local health authority or the department.

Mosquito Control on Uninhabited Residential Property **Section 341.019**

- (a) Notwithstanding any other law, a municipality, county, or other local health authority may abate, without notice, a public health nuisance under Section 341.011(7) that:
- (1) is located on residential property that is reasonably presumed to be abandoned or that is uninhabited due to foreclosure; and
 - (2) is an immediate danger to the health, life, or safety of any person.
- (b) A public official, agent, or employee charged with the enforcement of health, environmental, or safety laws may enter the premises described by Subsection (a) at a reasonable time to inspect, investigate, or abate the nuisance.
- (c) In this section, abatement is limited to the treatment with a mosquito larvicide of stagnant water in which mosquitoes are breeding.
- (d) The public official, agent, or employee shall post on the front door of the residence a notice stating:
- (1) the identity of the treating authority;
 - (2) the purpose and date of the treatment;
 - (3) a description of the areas of the property treated with larvicide;
 - (4) the type of larvicide used; and
 - (5) any known risks of the larvicide to humans or animals.

Penalties **Section 341.091**

- (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$200.
- (b) If it is shown on the trial of the defendant that the defendant has been convicted of an offense under this chapter within a year before the date on which the offense being tried occurred, the defendant shall be punished by a fine of not less than \$10 or more than \$1,000, confinement in jail for not more than 30 days, or both.
- (c) Each day of a continuing violation is a separate offense.

Civil Enforcement **Section 341.092**

- (a) A person may not cause, suffer, allow, or permit a violation of this chapter or a rule adopted under this chapter.

(b) A person who violates this chapter or a rule adopted under this chapter shall be assessed a civil penalty. A civil penalty under this section may not be less than \$10 or more than \$200 for each violation and for each day of a continuing violation.

(c) If it is shown on the trial of the defendant that the defendant has previously violated this section, the defendant shall be assessed a civil penalty of not less than \$10 or more than \$1,000 for each violation and for each day of a continuing violation.

(d) If it appears that a person has violated, is violating, or is threatening to violate this chapter, a rule adopted under this chapter, the department, a county, a municipality, or the attorney general on request by the district attorney, criminal district attorney, county attorney, or, with the approval of the governing body of the municipality, the attorney for the municipality may institute a civil suit in a district court for:

- (1) injunctive relief to restrain the person from continuing the violation or threat of violation;
- (2) the assessment and recovery of a civil penalty; or
- (3) both injunctive relief and a civil penalty.

(e) The department is a necessary and indispensable party in a suit brought by a county or municipality under this section.

(f) On the department's request, or as otherwise provided by this chapter, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief, to recover a civil penalty, or for both injunctive relief and civil penalty.

(g) The suit may be brought in Travis County, in the county in which the defendant resides, or in the county in which the violation or threat of violation occurs.

(h) In a suit under this section to enjoin a violation or threat of violation of this chapter, a rule adopted under this chapter, the court shall grant the state, county, or municipality, without bond or other undertaking, any injunction that the facts may warrant, including temporary restraining orders, temporary injunctions after notice and hearing, and permanent injunctions.

(i) Civil penalties recovered in a suit brought under this section by a county or municipality through its own attorney shall be equally divided between:

- (1) the state; and
- (2) the county or municipality that first brought the suit.

(j) The state is entitled to civil penalties recovered in a suit instituted by the attorney general.

SECTION 13: Texas Department of Transportation Code 683

Abandoned Motor Vehicle 683.002

(a) For the purposes of Chapter 683, a motor vehicle is abandoned if the motor vehicle:

- (1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) has remained illegally on public property for more than 48 hours;
- (3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;
- (5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or
- (6) is considered an abandoned motor vehicle under Section 644.153(r) of the Texas Transportation Code.

Authority to take abandoned motor vehicle into custody Section 683.011

(a) A law enforcement agency may take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property.

(b) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency under this subchapter.

Notice: Section 683.012

(a) A law enforcement agency shall send notice of abandonment to:

(1) the last known registered owner of each motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and

(2) each lienholder recorded:

(A) under Chapter 501 for the motor vehicle;

(B) with the Federal Aviation Administration or the secretary of state for the aircraft; or

(C) under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.

(a-1) A law enforcement agency that takes into custody an aircraft shall contact the Federal Aviation Administration in the manner described by Section 22.901 to attempt to identify the owner of the aircraft before sending the notice required by Subsection (a).

(b) The notice under Subsection (a) must:

(1) be sent by certified mail not later than the 10th day after the date the agency:

(A) takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody; or

(B) receives the report under Section 683.031;

(2) specify the year, make, model, and identification number of the item;

(3) give the location of the facility where the item is being held;

(4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:

(A) towing, preservation, and storage charges; or

(B) garage keeper's charges and fees under Section 683.032 and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the delinquent administrative penalty and costs; and

(5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:

(A) a waiver by that person of all right, title, and interest in the item; and

(B) consent to the sale of the item at a public auction.

(c) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, aircraft, watercraft, or outboard motor was abandoned is sufficient notice under this section if:

(1) the identity of the last registered owner cannot be determined;

(2) the registration has no address for the owner; or

(3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.

(d) Notice by publication:

(1) must be published in the same period that is required by Subsection (b) for notice by certified mail and contain all of the information required by that subsection; and

(2) may contain a list of more than one abandoned motor vehicle, aircraft, watercraft, or outboard motor.

(e) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (a), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the department for the disposal of the vehicle.

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the

agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

Storage Fees: Section 683.013

A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor is entitled to reasonable storage fees:

- (1) for not more than 10 days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and
- (2) beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, aircraft, watercraft, or outboard motor is removed.

Auction or Use of Abandoned Items; Waiver of Rights Section 683.014

(a) If an abandoned motor vehicle, aircraft, watercraft, or outboard motor is not claimed under Section 683.012:

(1) the owner or lienholder:

(A) waives all rights and interests in the item; and

(B) consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided by Subsection (d); and

(2) the law enforcement agency may sell the item at a public auction, transfer the item, if a watercraft, as provided by Subsection (d), or use the item as provided by Section 683.016

(b) Proper notice of the auction shall be given. A garage keeper who has a garage keeper's lien shall be notified of the time and place of the auction.

(c) The purchaser of a motor vehicle, aircraft, watercraft, or outboard motor:

(1) takes title free and clear of all liens and claims of ownership;

(2) shall receive a sales receipt from the law enforcement agency; and

(3) is entitled to register the motor vehicle, aircraft, watercraft, or outboard motor with and receive a certificate of title from the appropriate authority.

(d) On consent of the Parks and Wildlife Department, the law enforcement agency may transfer a watercraft that is not claimed under Section 683.012 to the Parks and Wildlife Department for use as part of an artificial reef under Chapter 89, Parks and Wildlife Code, or for other use by the Parks and Wildlife Department permitted under the Parks and Wildlife Code. On transfer of the watercraft, the Parks and Wildlife Department:

- (1) takes title free and clear of all liens and claims of ownership; and
- (2) is entitled to register the watercraft and receive a certificate of title.

Auction Proceeds Section 683.015

(a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor for:

- (1) the cost of the auction;
- (2) towing, preservation, and storage fees resulting from the taking into custody;
- (3) the cost of notice or publication as required by Section 683.012; and
- (4) any compensation made by the agency under Subsection (f) to property owners whose property was damaged as a result of a pursuit involving the motor vehicle.

(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.

(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, aircraft, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the law enforcement agency or, if the vehicle, aircraft, watercraft, or outboard motor was located in a county with a population of less than 150,000, by the attorney representing the state.

(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.

(f) A law enforcement agency or an attorney representing the state may use funds transferred under Subsection (d) to compensate property owners whose property was damaged as a result of a pursuit involving a law enforcement agency or a federal law enforcement agency, regardless of whether the agency would be liable under Chapter 101, Civil Practice and Remedies Code.

(g) Before a law enforcement agency or an attorney representing the state may compensate a property owner under Subsection (f) using funds transferred to a county under Subsection (d), the sheriff, constable, or attorney representing the state must submit the proposed payment for compensation for consideration, and the commissioners court shall consider the proposed payment for compensation, at the next regularly scheduled meeting of the Commissioners' Court.

(h) In this section, "attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

SECTION 14: Junked Vehicles: Public Nuisance; Abatement, Section 683.071 of Transportation Code

DEFINITION AND APPLICABILITY

(a) In this subchapter, "junked vehicle" means a vehicle that:

(1) is self-propelled; and

(2) is:

(A) wrecked, dismantled or partially dismantled, or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

(b) For purposes of this subchapter, "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This subchapter applies only to:

(1) a motor vehicle that displays an expired license plate or does not display a license plate;

(2) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or

(3) a watercraft that:

(A) does not have lawfully on board an unexpired certificate of number; and

(B) is not a watercraft described by Section 31.055, Parks and Wildlife Code.

Junked Vehicle Declared to be a Public Nuisance: Section 683.072

A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

(1) is detrimental to the safety and welfare of the public;

(2) tends to reduce the value of private property;

(3) invites vandalism;

(4) creates a fire hazard;

(5) is an attractive nuisance creating a hazard to the health and safety of minors;

(6) produces urban blight adverse to the maintenance and continuing development of municipalities; and

(7) is a public nuisance.

Offense:

(a) A person commits an offense if the person maintains a public nuisance described by Section 683.072.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

(c) The court shall order abatement and removal of the nuisance on conviction.

Authority to Abate Nuisance; Procedures. Section 683.074

(a) Navarro County adopts the following procedures that conform to this subchapter for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

(b) The procedures:

(1) prohibit a vehicle from being reconstructed or made operable after removal;

(2) require a public hearing on request of a person who receives notice as provided by Section 683.075 if the request is made not later than the date by which the nuisance must be abated and removed; and

(3) require that notice identifying the vehicle or part of the vehicle be given to the department not later than the fifth day after the date of removal.

(c) An appropriate court of the municipality or county may issue necessary orders to enforce the procedures.

(d) Procedures for abatement and removal of a public nuisance will be administered by a regularly salaried, full-time employees of the municipality or county, except that any authorized person may remove the nuisance.

(e) A person authorized to administer the procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

(f) On receipt of notice of removal of a motor vehicle under Subsection (b)(3), the department shall immediately cancel the certificate of title issued for the vehicle.

(g) The procedures provide that the relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(h) On receipt of notice of removal of a watercraft under Subsection (b)(3), the department shall notify the Parks and Wildlife Department of the removal. On receipt of the notice from the department, the Parks and Wildlife Department shall immediately cancel the certificate of title issued for the watercraft.

Notice: Section 683.075

(a) The procedures for the abatement and removal of a public nuisance under this subchapter must provide not less than 10 days' notice of the nature of the nuisance. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) the last known registered owner of the nuisance;
- (2) each lienholder of record of the nuisance; and
- (3) the owner or occupant of:
 - (A) the property on which the nuisance is located; or
 - (B) if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice must state that:

- (1) the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and
- (2) any request for a hearing must be made before that 10-day period expires.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.

(d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

Hearing: Section 683.076

(a) The governing body of the municipality or county or a board, commission, or official designated by the governing body shall conduct hearings under the procedures adopted under this subchapter.

(b) If a hearing is requested by a person for whom notice is required under Section 683.075(a)(3), the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(c) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(d) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include:

- (1) for a motor vehicle, the vehicle's:
 - (A) description;
 - (B) vehicle identification number; and
 - (C) license plate number;
- (2) for an aircraft, the aircraft's:
 - (A) description; and
 - (B) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and
- (3) for a watercraft, the watercraft's:
 - (A) description; and
 - (B) identification number as set forth in the watercraft's certificate of number.

Inapplicability of Subchapter: Sec. 683.077

- (a) Procedures adopted under Section 683.074 may not apply to a vehicle or vehicle part:
 - (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
 - (2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (A) maintained in an orderly manner;
 - (B) not a health hazard; and
 - (C) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.
- (b) In this section:
 - (1) "Antique vehicle" means a passenger car or truck that is at least 25 years old.
 - (2) "Motor vehicle collector" means a person who:
 - (A) owns one or more antique or special interest vehicles; and
 - (B) acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.
 - (3) "Special interest vehicle" means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Junked Vehicle Disposal: Sec. 683.078

- (a) A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.
- (b) A municipality or county may operate a disposal site if its governing body determines that commercial disposition of junked vehicles is not available or is inadequate. A municipality or county may:
 - (1) finally dispose of a junked vehicle or vehicle part; or
 - (2) transfer it to another disposal site if the disposal is scrap or salvage only.

SECTION 15: Texas Transportation Code 396.001 through 396.045 to include Subchapter 234

DEFINITIONS. In this chapter:

- (1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.
- (2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.
- (3) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.
- (4) "Recycling business" means a business primarily engaged in the business of:
 - (A) converting metal or other material into raw material products that have:
 - (i) prepared grades; and
 - (ii) an existing or potential economic value;
 - (B) using raw material products described by Paragraph (A) in the production of new products; or
 - (C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).
- (5) "Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

Sec. 396.002. INJUNCTION. (a) A person is entitled to an injunction to prohibit a violation or threatened violation of this chapter or of a county ordinance adopted under this chapter.

- (c) The venue for the injunction proceeding is in the county in which any part of the junkyard or automotive wrecking and salvage yard is located.

Screening Requirements. Sec. 396.021.

(a) This section does not apply to:

- (1) an automotive wrecking and salvage yard as defined by and subject to Chapter 397;
- (2) a junkyard as defined by Section 391.001 and subject to Subchapter E, Chapter 391;
- (3) a recycling business; or
- (4) a junkyard or an automotive wrecking and salvage yard entirely in a municipality and regulated by the municipality.

(b) A person who operates a junkyard or an automotive wrecking and salvage yard shall screen the junkyard or automotive wrecking and salvage yard with a solid barrier fence at least eight feet high. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name.

(c) A person who operates a junkyard or an automotive wrecking and salvage yard in a county with a population of 200,000 or less shall screen the junkyard or automotive wrecking and salvage yard to at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The person may screen the yard by any appropriate means, including:

- (1) a fence;
- (2) natural objects; or
- (3) plants.

Location of Yard Sec. 396.022.

(a) A junkyard or an automotive wrecking and salvage yard may not be located:

- (1) within 50 feet of the right-of-way of a public street or state highway; or
- (2) within 50 feet of the nearest property line of a residence.

(b) A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking and salvage yard higher than eight feet above ground level.

(c) This section does not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment.

Effect of Local Ordinance Sec. 396.023

A person who operates a junkyard or an automotive wrecking and salvage yard, in screening the yard, shall comply, to the extent practicable, with an applicable ordinance adopted by a political subdivision.

Penalty **Sec. 396.024**

- (a) A person commits an offense if the person knowingly violates Section 396.021 or 396.022.
- (b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500.
- (c) Each day a violation continues is a separate offense.

County License **Sec. 396.041**

- (a) This section does not apply to:
 - (1) a recycling business;
 - (2) a junkyard or automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality; or
 - (3) a junkyard or automotive wrecking and salvage yard in operation before June 1, 1987.
- (b) To protect the public health, safety, or welfare, Navarro County adopts an ordinance requiring a junkyard or automotive wrecking and salvage yard to be licensed by the county.
- (c) The ordinance:
 - (1) imposes a fee of \$150 for the issuance or renewal of a license;
 - (2) condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the Commissioners' Court or a county employee designated by the Commissioners' Court; or
 - (3) establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.
- (d) The county shall deposit each license fee received to the credit of the county general fund.

Public Hearing **Sec. 396.042**

- (a) Before adopting an ordinance under Section 396.041, the commissioners court must hold a public hearing.
- (b) Any interested member of the public may appear and testify at the hearing about the subject of the proposed ordinance.

Notice of Hearing **Sec. 396.043**

(a) The commissioners court shall:

(1) post in a public place in the county courthouse a notice of the time, place, and general subject of the public hearing; and

(2) publish the notice in a newspaper of general circulation in the county.

(b) The notice must be:

(1) posted for the 10 days preceding the date of the public hearing; and

(2) published at least once a week for the three weeks preceding the week the public hearing is held.

Conflict of Other Law Sec. 396.044

If a requirement, standard, or condition established under this subchapter conflicts with another law of this state, a rule adopted under state law, or a municipal ordinance, the stricter of the two provisions prevails.

Penalty Sec. 396.045

(a) A person commits an offense if the person violates an ordinance adopted under this subchapter that defines an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500.

(c) Each day a violation continues is a separate offense.

SECTION 16: Repeal of conflicting orders:

All orders of parts of Orders in conflict with this Order are repealed to the extent of such conflict.

SECTION 17: Severability

Of any provision of this Order, or the application thereof to any person or circumstances shall be held invalid or unconstitutional by a court of competent Jurisdiction, such invalidity shall not affect the other provision or application thereof, of this Order, which can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.

SECTION 18: Publication

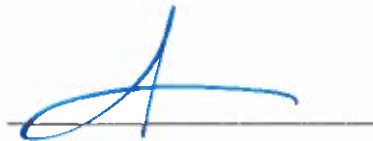
The Navarro County Clerk shall publish the caption or a descriptive title of this Order one-time within ten (10) days after final passage of the Order in a newspaper of general circulation in the County of Navarro.

SECTION 19: Distribution

A certified copy of this Order shall be delivered to the Environmental Health Department, Sheriff, District Attorney, County Treasurer, Constables and County Auditor of Navarro County, Texas, for their information and observance.

SECTION 20: Effective Date

The above and foregoing instrument passed by unanimous vote of the Commissioners' Court of Navarro County, Texas, this 12th day of August, 2024, and hereinafter has the effect of the law.



Jason Grant, Commissioner
Precinct 1



H.M. Davenport, County Judge



Eddie Perry, Commissioner
Precinct 2



Eddie Moore, Commissioner
Precinct 2



David Brewer, Commissioner
Precinct 4



Sherry Dowd, Navarro County Clerk

